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ABSTRACT

This paper focuses on the teaching of international law in the University of Virginia's (Charlottesville) Department of Government and Foreign Affairs. It highlights the international law curriculum as part of the Foreign Affairs Department's course offerings and describes the purposes and objectives of courses in this curriculum. Problems that relate to teaching international law in conjunction with political science courses are discussed. A course outline for an undergraduate level international law course at the University of Virginia's Woodrow Wilson Department of Government and Foreign Affairs is attached. (JHP)

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THE PLACE OF INTERNATIONAL LAW IN DEPARTMENTS OF POLITICAL SCIENCE/GOVERNMENT

Remarks prepared for a Roundtable Discussion, "Teaching International Law: Differing Perspectives and Approaches" at the Annual Meeting of the International Studies Association, St. Louis, MO, March 30-April 2, 1988.

by

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THE PLACE OF INTERNATIONAL LAW IN DEPARTMENTS OF POLITICAL SCIENCE/GOVERNMENT

While the title for my contribution to the roundtable on teaching international law is much broader, I will focus in these remarks on the place of international law in the University of Virginia's Department of Government and Foreign Affairs. My objective here is to provide a point of departure for others to compare and to contrast their experiences with international law in government and political science departments.

The basis for this narrative is a series of conversations I held over the last several months with members of the department at both junior and senior levels including both faculty who specialize in international relations and those who do not. I have also discussed the topic with both graduate and undergraduate students.

International Law as Part of the Foreign Affairs Major

The University of Virginia's Department of Government and Foreign Affairs offers two undergraduate majors--one in government and one in foreign affairs. For students majoring in foreign affairs, a basic requirement is to take one of the following three semester-long courses: international law, international organization or world order. In a major which at present numbers 301, classes in each case range from 80 to 150 students. Students often exceed the basic requirement and take more than one of the courses. The size of international law classes and its central place in the international relations curriculum of this department, I have been told, is atypical for

an international relations major.

In talking with senior members of the department about this, I learned--not surprisingly perhaps--that the place of international law in the department's curriculum reflected the talents and interests of the faculty over the years as much as any deliberate strategy. This talent at one time included both Quincy Wright and Percy Corbett. It is largely because of the rich heritage left by Wright and Corbett that the department has actively worked to continue teaching the subject.

Upon closer examination, however, the department's commitment to teaching international law seems less serendipitous. The present department is the product of a merger in the 1950's between the Woodrow Wilson School of Foreign Affairs and the Department of Government. For students at this school of foreign affairs, international law was a required part of the curriculum. The requirement carried over into the major of the newly merged department.

This historical background raises the question of whether schools specializing in international affairs place greater emphasis on international law or have more range in their curriculum to offer a full course in international law than do departments of political science. My own educational background at American University's School of International Service and the Fletcher School of Law and Diplomacy suggests that this might be the case.

For graduate students, international law is part of a subfield option which includes international organization. Comprehensive examinations are given in the field twice a year.

During my four years at UVa, between two to six students have taken the examinations at each sitting. There have been some half dozen masters' theses undertaken during this time on topics of international law, but no dissertation work which I can recollect. For graduate students, a seminar is available in addition to the introductory survey.

Function or Purpose of Studying International Law as Part of a Foreign Affairs Major

In conversations with both international relations and non-international relations faculty, several functions or purposes came up:

--to broaden the perspective of students who get slotted into regional concentrations after the introductory courses;

--to move away from the self-interest emphasis of examining foreign policies towards consideration of the structure of the international system and how it regulates the competition created by the pursuit of self-interest;

--to provide an applied approach to the international relations theory which students get in the introductory courses;

--to examine and to evaluate the rules governing state behavior as a factor in international relations.

How Should International Law Be Taught in a Department of Government?

While views differed on whether using a casebook was an effective tool for teaching international law, it was unanimous that the subject had to be taught with certain broad themes in

mind. These included:

--measuring the impact of international law: is it a dependent or independent variable in international relations? how can one measure its influence?

--international law as an approach to the problem of change in international relations: is it possible to achieve orderly change? can stability and change coexist? can change be structured?

--law as part of a political process: what is the relationship between international law and international politics?

Course Content

There was a consensus among those surveyed that the course content should emphasize the operational rather than the normative side of international law. One of those interviewed suggested that international law should be seen as a functioning and non-optional tool of the state system. Here again, the place of a casebook came up as an issue. A suggestion was made that the emphasis on judicial writing in casebooks is inappropriate for the study of international law which operates largely outside the realm of judges. At the same time, others noted that judicial writings can be useful in showing how international law is applied in the more familiar setting of legal institutions.

Assumptions about International Law and Analogies to Domestic Legal Systems

Perhaps the greatest difficulty in teaching international law in departments of political science is the lack of

understanding for what the subject is. The irony is that while few could describe to me what the content of a course on international law might or should include, most had opinions about the subject at large. The general reaction to the syllabus I gave each person I met with prior to our discussion was that they had no idea that so much content was involved in the course. A copy of the syllabus is attached.

Opinions about the subject ranged from the irrelevancy of international law to the study and conduct of international relations to its ineffectiveness. International law suffers from an image problem which is then fueled by broad ignorance of the subject even among those whose specialties fall within international relations. Inis Claude described the image problem as one of "idealism expressed through law" which failing to solve problems is regarded as useless. Professor Claude also noted that the emphasis on pursuing the national interest in the study of foreign policies ignores the wider interest of maintaining some semblance of an international system within which to pursue that interest.

One last observation about international law as a subject for study by political scientists is the frequently poor image political scientists have of lawyers and of law schools. The most common complaint here is that law school teaching is formalistic and ignores the political process which gives life to the law.

WOODROW WILSON DEPARTMENT OF GOVERNMENT AND FOREIGN AFFAIRS

GFIR 311
International Law
Spring 1988

Charlotte Ku
216A Cabell Hall
924-7936

Office Hours: Mondays: 1:30-3; Wednesdays: 2-5; and by appointment.

Course Objectives: GFIR 311 has three objectives:

1. To familiarize students with the function of international law in international relations;
2. To introduce general principles of international law through discussion and cases; and
3. To evaluate the effectiveness of international law in regulating state behavior.

Required Books: (available at University and Newcomb Hall bookstores)

Michael Akehurst, A Modern Introduction to International Law, 6th edition.
Louis Henkin, Richard C. Pugh, Oscar Schachter, and Hans Smit, eds., International Law: Cases and Materials, 2nd edition.

Course Requirements: Mid-term examination: 20%, 6-10 page writing assignment: 20%; final examination: 45%; class participation: 15%. Failure to meet any of the above requirements will result in an automatic F for the course. Attendance will be taken at each discussion session -- 3 unexcused absences will result in a grade penalty.

Course Outline and Reading Assignments: (reading assignments may change as the course progresses)

1/20 1. Law and the Global Political System

Akehurst: Chapter 1
Henkin: 1-31

1/25 2. Law and Community

Akehurst: Chapter 2
Henkin: 32-4

1/27-2/8 3. Sources of International Law

Akehurst: Chapter 3
Henkin: Chapter 2
a. custom: 35-69
b. treaties: 69-88
c. general principles: 88-107
d. judicial decisions, teachings, UN resolutions: 107-36

2/10-2/22 4. Applying International Law: Its Relation to Municipal Law

Akehurst: Chapter 4
Henkin: Chapter 3
a. application through national courts and the act of state doctrine: 137-81
b. treaty-making power of the U.S. President: 182-227

2/24-2/29 5. State Subjects of International Law

Akehurst: Chapters 5 and 19
Henkin: 228-86

3/2-3/14 6. Territorial Sovereignty

a. over land: Akehurst: Chapter 11
Henkin: 286-317
b. over water: Akehurst: Chapter 13
1. internal waters: Henkin: 1349-1358
2. territorial sea: Henkin: 1231-56, 1260-2, 1275-87
3. continguous zones: Henkin: 1287-9
4. high seas
c. over air, space and celestial bodies: Akehurst: Chapter 14

Mid-Term Examination: Wednesday, March 2, 1988

Paper Due Dates: Wednesday, ~~March 9, 1988~~
March 23, 1988
March 30, 1988
April 6, 1988
April 13, 1988
April 20, 1988

Spring Break: March 13 and March 16, 1988

7. Bases of Jurisdiction

Akehurst: Chapter 8
Henkin: 826-8, 832-5, 856-9, 860-71, 885-90

8. Immunity from Jurisdiction

Akehurst: Chapter 9
Henkin: 891-907, 941-61

9. International Agreements

Akehurst: Chapters 10 and 12
Henkin: 399-401, 415-22, 485-502

10. Non-State Subjects of International Law

a. international organizations:
Akehurst: 70-2 and Chapter 15
Henkin: 322-33
b. individuals-nationals:
Akehurst: 81-6
Henkin: 352-85
c. individuals-non-nationals:
Akehurst: 72-81 and Chapter 7
Henkin: 1003-7, 1085-7 and 1096-9

11. Pacific Settlement and Disputes

Akehurst: Chapter 16

12. Use of Force

Akehurst: Chapters 17 and 18

FINAL EXAMINATION: Friday, May 13, 2-5.